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Preparatory Committee for the Special Session of the General Assembly on the Implementation of the Outcome of the World Summit for Social Development and Further Initiatives
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Preparations for the special session of the General Assembly on the implementation of the outcome of the World Summit for Social Development and further initiatives

Review reports and proposals for further action and initiatives submitted by organs and specialized agencies of the United Nations system and other concerned organizations

Note by the Secretary-General

Addendum

Contribution from the United Nations High Commissioner for Human Rights**

1. The Preparatory Committee for the Special Session of the General Assembly on the Implementation of the Outcome of the World Summit for Social Development and Further Initiatives, in paragraph 5 of the annex to decision 1,[1] requested the United Nations High Commissioner for Human Rights to prepare a report, based on existing reports, on progress achieved and obstacles encountered since the World Summit for Social Development in the ratification and implementation of existing international conventions and covenants and in the implementation of other relevant human rights instruments, including the Declaration on the Right to Development.

* E/AC 253/12.
** The report is being issued herewith as received in the language of submission only.

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2. The Secretary-General accordingly circulates herewith, for the information of the Preparatory Committee, the report prepared by the United Nations High Commissioner for Human Rights in response to that request.

Notes

[1] *Official Records of the General Assembly, Fifty-fourth Session, Supplement No. 45* (A/54/45 and corrigendum), chap. VI, sect. B.

Report of the United Nations High Commissioner for Human Rights

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I. Introduction

1. In its revised decision of 6 July 1999 under paragraph 5 of Commitment One "An Enabling Environment for Social Development", the Preparatory Committee for the Special Session of the General Assembly on the Implementation of the Outcome of the World Summit for Social Development and Further Initiatives requested the United Nations High Commissioner for Human Rights to prepare a report, based on existing reports, on progress achieved and obstacles encountered since the World Summit for Social Development in the ratification and implementation of existing international conventions and covenants and in the implementation of other relevant human rights instruments, including the Declaration on the Right to Development.

II. Ratification of human rights instruments - progress achieved since the World Summit

2. Since the World Summit in 1995, there has been a marked quantitative achievement in ratification as well as a growing awareness of human rights treaties. As at 21 October 1999, 142 States had ratified or acceded to the *International Covenant on Economic, Social and Cultural Rights* ; 144 States had ratified or acceded to the *International Covenant on Civil and Political Rights* (ICCPR) ; there were 95 States parties to the *Optional Protocol* to the ICCPR and 40 States parties to the *Second Optional Protocol* to the ICCPR ; 118 States had ratified or acceded to the *Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment* ; 155 States had ratified or acceded to the *International Convention on the Elimination of All Forms of Racial Discrimination* ; 163 States had ratified the *Convention on the Elimination of Discrimination Against Women* ; 191 States had ratified or acceded to the *Convention on*

the Rights of the Child ; 12 States had ratified or acceded to the *Convention on the Protection of the Rights of Migrant Workers and Members of Their Families* (CMW). The CMW has not yet come into force.

3. This demonstrates an increase of up to 15% in the level of ratifications since the World Summit was held in March 1995.

4. Since the World Summit in 1995, there have been several initiatives directed towards promoting ratification and strengthening the implementation of human rights instruments, including the Declaration on the Right to Development. In particular, the High Commissioner for Human Rights has pursued system-wide cooperation with developmental organizations, funds and programmes with a view to supporting the enhancement of the human rights regime worldwide. Examples of some of the initiatives are as follows:

5. As part of the follow-up to the World Conference on Human Rights, the Office of the High Commissioner for Human Rights has held two regional meetings on universal adherence to the principal international human rights instruments. The first meeting was held in Addis Ababa from 14-17 May 1996 and the second in Amman from 1-4 September 1997. At each meeting, the participants formulated a "non-paper" identifying major obstacles to the ratification and implementation of human rights instruments and ways of how they may be overcome.

6. An independent expert appointed by the Commission on Human Rights to report on enhancing the long-term effectiveness of the United Nations human rights treaty systems, in his final report of 1997, made a number of far-reaching recommendations to improve the treaty system including recommendations in relation to the ratification of human rights treaties.[1] The expert considered that universal ratification of the six core

United Nations human rights treaties would establish the best possible foundation for international endeavours to promote respect for human rights, and made four specific recommendations in this area, namely: to explore, through consultations with the leading international agencies, the potential involvement of those agencies in a ratification campaign; to appoint special advisors on ratification and reporting and to earmark funds for those purposes; to examine special measures to streamline the reporting process for States with small populations; and to pay particular attention to certain categories of non-parties to human rights treaties.

7. The Executive Heads of the United Nations organizations and the Secretary-General have personally taken steps to promote the ratification and implementation of human rights instruments. In particular, the Secretary-General and the High Commissioner for Human Rights, since the 1993 World Conference on Human Rights, have regularly appealed to countries to ratify these treaties. On 1 December 1997, and again in January 1999, the Secretary-General and the High Commissioner for Human Rights sent letters as part of a global appeal to ratify the principal human rights instruments.

8. In addition, the High Commissioner for Human Rights has been working to elaborate a strategy for each major geographic region which includes the question of ratification of the human rights instruments. One of the main elements of the strategy has been the nomination of regional advisors who will engage in high-level policy dialogue with senior officials of countries in the region on all areas relating to human rights, notably in respect of the ratification of human rights instruments. Promoting ratification of international human rights instruments is also an important component of the duties of

1.Economic and Social Council, *Effective Functioning of Bodies Established Pursuant to United Nations Human Rights Instruments*, Final Report on Enhancing the Long-Term Effectiveness of the United Nations Human Rights Treaty System, Commission on Human Rights, fifty-third session, 1997, E/CN.4/1997/74.

the High Commissioner's Special Adviser for regional strategies on the promotion and protection of human rights.

9. In 1998, the UNDP and the OHCHR formulated a joint programme for human rights strengthening aimed at operationalizing the UNDP commitment to human rights. The programme for human rights strengthening (HURIST) was signed on 8 April 1999 and provides for action under five windows as follows: (1) support for five pilot programmes in five regions for setting up national human rights plans to strengthen national capacity to promote, protect and realize human rights; (2) support for five pilot programmes in five regions for designing guidelines on mainstreaming human rights in UNDP sustainable human development country programmes; (3) organization of regional, sub-regional, and national workshops for the promotion of ratification of the principal human rights instruments; (4) organization of a seminar advancing the global dialogue on the impact of globalization on the enjoyment of human rights; (5) support to UNDP country office projects for programming in the field of human rights.

10. The two main aspects of the HURIST programme that promote the ratification of human rights instruments are the first and third windows. Under the third window, a series of workshops are foreseen at the regional, sub-regional and national levels with the participation of representatives of States that are not parties to most of the principal treaties. Participating States will be encouraged to send several representatives to the workshops from the main departments or ministries dealing with questions of human rights and ratification of international treaties. The intention is to enable in-depth discussion among participants on the obstacles to ratification and formulation of concrete strategies to overcome these obstacles. Under the first window, the HURIST programme will assist governments to draw up national plans of action on human rights that specifically include components promoting the ratification of human rights treaties.

11. Generally, the technical assistance programmes of the Office of the High Commissioner for Human Rights promote the ratification of human rights instruments by States and assist them in the task of implementation. In the *Vienna Declaration and Programme of Action* adopted in June 1993, the World Conference on Human Rights recommended that the then Centre for Human Rights, through its advisory services and technical assistance activities and on request from States, assist States in the preparation of Plans of Action for human rights at a national level. The OHCHR now assists States in developing and implementing national plans of action, which includes the promotion of ratification of human rights instruments as an essential component.

12. OHCHR is assisting States in elaborating and implementing national plans of action at both the regional and national level. Regionally, in July 1999, the OHCHR facilitated a workshop in Bangkok for the Asia/Pacific region to assist States identify best practices in the formulation of national plans of action on human rights. The workshop identified a set of possible elements to facilitate the development of national plans of action, which includes agreement that one of the fundamental purposes of such plans of action is the encouragement of ratification of human rights instruments. Further regional workshops on establishing best practices for the formulation of national plans of action are planned in 2000 for Africa and Latin America.

13. At the national level, the OHCHR is assisting States directly, on request, with the formulation and implementation of national plans of action. In October 1999, a workshop was held in Armenia to assist it in formulating its national plan of action. Again, an essential component of the plan was the promotion of ratification of human rights instruments. To date, 11 countries have finalized national plans of action, namely: Australia, Bolivia, Brazil, Equador, Indonesia, Latvia, Malawi, Mexico, Philippines, South Africa and Venezuela. The OHCHR has also been active in assisting the Palestinian Authority in formulating a plan.

14. Finally, in order to encourage universal ratification of existing international standard setting instruments on human rights, UNESCO publishes annually a brochure *Human Rights: Major International Instruments*. The latest issue dates from 31 May 1999.

III Implementation of human rights instruments - progress achieved since the World Summit

15. The principle mechanisms for monitoring the implementation of human rights' instruments are the treaty bodies. Treaty bodies are composed of independent experts of recognized competence in the field of human rights who are elected by States parties. The treaty bodies act as a monitoring system to oversee the implementation of the human rights instruments by those States that have ratified or acceded to them. This is done principally through the examination of reports submitted by States parties. After consideration of the reports, the treaty bodies make concluding observations and suggestions and recommendations for the States parties to improve the implementation of the covenants and conventions. There are currently six treaty bodies: the Human Rights Committee, which monitors the implementation of the *International Covenant on Civil and Political Rights*; the Committee on Economic, Social and Cultural Rights; the Committee against Torture; the Committee on the Elimination of All Forms of Racial Discrimination; The Committee on the Rights of the Child; and the Committee on the Elimination of Discrimination against Women.

16. The growth of the reporting system is consistent with an overall increase in the level of implementation of human rights instruments. For example, the total number of reports considered by treaty bodies by 1995 was 1,244 while the total number by 1998 was 1,519. Thus, over the 1995-1998 period, the treaty bodies together reviewed 275

reports. Viewed annually, it can be seen that the work load of treaty bodies has increased steadily. In 1995, for example, treaty bodies examined 74 reports. By 1998, this figure had increased significantly, with treaty bodies examining 96 reports in that year.

17. In spite of the large volume of work completed by the various treaty bodies, there are still a considerable number of reports that are overdue under each treaty. As of June 1999, the number of overdue reports per covenant or convention were as follows: *The International Covenant on Civil and Political Rights* (131), *The International Covenant on Economic Social and Cultural Rights* (130), *The Convention on the Elimination of Racial Discrimination* (388), *The Convention on the Elimination of the Discrimination Against Women* (239), *The Convention Against Torture* (102), *The Convention on the Rights of the Child* (156). Similarly, the total number of reports which have been submitted, but which were backlogged, or pending examination before the treaty bodies was 120 in 1995 but 199 by 1998.

18. The Committee on Human Rights, the Committee on the Elimination of Racial Discrimination, the Committee Against Torture and from December 1999, the Committee on the Elimination of Discrimination Against Women have the authority to receive individual complaints on human rights abuses in certain situations. For the various committees to be able to admit and examine individual complaints against a State party, its competence in this regard much have been expressly recognized by the

2. For the Human Rights Committee to hear individual complaints, the State must be party to the First Optional Protocol to the *International Covenant on Civil and Political Rights*, for the Committee on the Elimination of Racial Discrimination, the State must declare its recognition of the Committee to admit individual complaints under Article 14 of the *Convention on the Elimination of Racial Discrimination*, for the Committee Against Torture, the State must declare its recognition of the competence of the Committee under Article 22 of the *Convention Against Torture* and in the case of the Committee for the Elimination of Discrimination Against Women, the State must ratify the recently adopted Optional Protocol to the

State concerned.[2] Of the individual complaints that have come before the various committees, the Human Rights Committee has given 333 views and as of January 2000 has 173 cases before it; the Committee Against Torture has given 17 views and, as of May 1999, has 33 cases before it; and the Committee on the Elimination of Racial Discrimination has 1 case before it and, as of October 1999, has given 3 views. The Optional Protocol to the *Convention on the Elimination of Discrimination Against Women*, adopted in December 1999, needs 10 ratifications before it enters into force.

19. However, examination of individual complaints by the treaty bodies does not in itself ensure that subsequent action is taken to protect the human rights of the complainants. States are often not forthcoming with information on follow-up to the decisions of treaty bodies and even where information is supplied, there are relatively low rates of implementation of decisions. For example, according to the Human Rights Committee, only 64% of States have provided follow-up replies on remedies for violations in individual cases, and of those responses, only 30% indicated a willingness by the State party to implement the Committee's views or offer the applicant an appropriate remedy.

20. The implementation of the *Declaration on the Rights of Persons Belonging to National and Ethnic, Religious and Linguistic Minorities* - an articulation of Article 27 of the ICCPR - has significantly progressed since 1995. In 1995, a five member Working Group on Minorities of the Sub-Commission for the Prevention of Discrimination and the Protection of Minorities was established in order to promote the rights of set out in the Declaration and monitor their implementation. The Working Group has been active in promoting dialogue between Governments and representatives of minority groups and NGOs and in promoting good practices in the area of minorities' rights. In May 1999,

Convention on the Elimination of Discrimination Against Women.

the Chairman of the Working Group issued a Commentary to the Declaration in order to clarify its purposes and to interpret individual articles. At the request of the Working Group, three seminars concerning minorities' rights have been held - in Geneva, in 1997, and in Canada in 1999, seminars were held on multicultural and intercultural education. In May, 1999, another seminar was organized in Flensburg, Germany concerning effective participation of minorities in public life at the national and regional level. Also relevant to the protection of minorities' rights has been Comment No.23 on minority rights adopted by the Human Rights Committee. The Committee requests states to include in their reports information on any measures adopted for the full protection of the rights under article 27.

21. The OHCHR has also been active in implementing the *Guiding Principles on Internal Displacement*. In 1992, in response to the growing international concern at the large number of internally displaced persons throughout the world and their need for assistance and protection, the United Nations Secretary-General appointed a Representative on the issue. The Commission on Human Rights requested the Representative to develop an appropriate normative framework for the protection of the internally displaced. To this end, the Representative developed the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2). Although they do not constitute a binding instrument, the Principles reflect and are consistent with international human rights and humanitarian law and analogous refugee law. The stated scope and purpose of the Guiding Principles is to provide guidance to the Representative, States, all other authorities, groups and persons, and intergovernmental and non-governmental organizations when addressing internal displacement.

22. Broad dissemination of the Principles has been assisted through their reproduction in booklet form in English, French, Spanish and Portuguese by the Office of the Coordination of Humanitarian Affairs (OCHA). Regional organizations and NGOs have

also been active in their dissemination and use, including through the convening of seminars and workshops on the application of the Principles in specific regions or countries. A workshop on internal displacement in Africa was held in Addis Ababa in 1998, co-sponsored by the Organization for African United the UNHCR and the Broomings Institution Project on Internal Displacement. A workshop on implementing the Prinicples was held in Colombia in May 1999 in Bogota, co-sponsored by the Brookings Institution Project, the US Committee for Refugees and the *Grupo de Apoyo a Organizaciones de Desplayados*. Seminars are also planned for the Asia region, to be held in Bangkok in February 2000, and the South Caucasus, to be convened in Tbilisi in May 2000. In addition, a *Handbook for Applying the Guiding Principles on Internal Displacement* that spells out the meaning of the Principles in non-technical language has been prepared by OCHA. In addition, an IASC training package on internally displaced persons is currently being developed by the Norwegian Refugee Council and is based around the Guiding Principles.

23. In relation to implementation generally, the OHCHR offers technical assistance to requesting States. Technical cooperation directly relevant to the implementation of human rights instruments includes: (1) constitutional assistance - assistance in the incorporation of international human rights norms in national constitutions. This type of assistance may take the form of advisory services of experts, the organization of conferences, the provision of human rights information and documentation, or support for public information campaigns; (2) legislative reform assistance - the OHCHR makes available international experts and specialized staff to assist Governments in the reform of their legislation, which has a clear impact on the situation of human rights. The goal of this type of assistance is to bring such laws into conformity with international standards as identified in human rights instruments; (3) treaty reporting assistance - the OHCHR provides training to enable government officials to prepare the reports due under the various international human rights treaties to which their State is a party. In

order to facilitate the training process, the OHCHR has developed a Manual on Human Rights Reporting designed to help officials charged with the task of compiling reports for the various treaty bodies.

IV. Obstacles encountered since the World Summit to the ratification and implementation of human rights instruments

24. In spite of the progress that has been made concerning ratification and implementation of the covenants and conventions and other relevant human rights instruments, there are still several obstacles that continue to slow the process towards universal ratification and implementation. The two regional meetings organized by the OHCHR on universal adherence to the principal international human rights instruments in Addis Ababa and Amman identified obstacles to ratification and implementation that can be grouped under the following headings: obstacles arising due to the complex nature of human rights, political obstacles, infrastructural obstacles, and lack of resources.

25. First, it was noted that the nature of human rights themselves had an impact on States' capacity to ratify human rights instruments. Some States have noted that uncertainties linked to the correct interpretation of clauses, have lead to reluctance to ratify treaties, especially where possible interpretations could conflict with existing domestic legislation. A lack of understanding of human rights norms and even a lack of awareness of their existence was also cited as an obstacle to ratification. In cases where the general public was unaware of the existence of treaties or lacked proper understanding of the rights provided in them, legislators were not sufficiently encouraged by popular demand to consider ratification.

26. Second, some States cited political reasons as obstacles to ratification. For example, some States agreed that the achievement and maintenance of political and economic

stability was their main priority. Where such States were faced with armed insurgent movements, contracting or stagnant economies or extremely fluctuating exchange rates, most were concerned with countering such phenomena and tended to consider that the Government could not afford to expend resources on human rights, in spite of the potential that the implementation of human rights standards offered to improving political and economic stability. Similarly, some States held the view that international human rights treaties intruded on national sovereignty or were inconsistent with traditional, religious or national values. In this regard, some countries were particularly sensitive to a perceived conflict between religious laws, traditional customs and practices on the one hand, and the implementation of human rights treaties on the other. Other countries also noted religious reasons to support their reticence to ratify and implement human rights treaties.

27. Third, infrastructural problems presented obstacles for some States to the ratification of human rights treaties. For example, some countries refrained from adhering to human rights treaties before they had established the political and administrative infrastructure necessary for their implementation, such as the achievement of a certain level of democratization, enactment of implementing legislation, establishment of an inter-ministerial unit to produce the reports required under treaties and the establishment of data collection systems. For some States, there is a perception that the act of ratification can increase already heavy administrative burdens on governments without necessarily elevating the protection afforded to their people. In this regard, the sometimes burdensome reporting process required under the covenants and conventions is seen as a drain on resources, time consuming and not always effective. Some States do not wish to ratify treaties until reform of the reporting process has been instituted. For some countries with very limited resources, often there is a political will to ratify human rights instruments, but the administrative hurdles facing new countries confronted with a stream of international instruments to implement, can at times present

an overwhelming burden to effective implementation or even ratification.

28. Fourth, many States have noted a lack of resources as a major obstacle to ratification and implementation. States with stagnant economies have identified their greatest priority as stimulating economic development and have noted that they do not have the economic resources to devote to the promotion and protection of human rights. In contrast, States with relatively advanced economies have cited a lack of human resources - personnel trained in human rights - as an obstacle both to the ratification and implementation of human rights. A lack of both financial and human resources can also be an obstacle to fulfilling the reporting requirements of the treaties, which require substantial input in terms of researching, compiling and analyzing information.

IV Recommendations

29. The following recommendations could promote the universal ratification and effective implementation of human rights treaties.

a. The activities of the OHCHR regarding the promotion of universal ratification, specifically technical assistance provided in the formulation and implementation of national plans of action on human rights should be widely expanded. Further funds should also be earmarked for technical assistance for projects to address a wide range of needs including constitutional legislative reform, training of national officials in international human rights standards and mechanisms, training of national officials in the treaty body reporting process, establishing national human rights institutions and improving coordination between relevant government departments and ministries.

b. To this end, further financial support should be given to the convening of regional seminars, under the auspices of the Office of the High Commissioner for Human Rights,

to encourage ratification and to identify obstacles to ratification and implementation faced by countries in the region.

c. The Office of the High Commissioner for Human Rights, the Department of Public Information and the field offices of the United Nations agencies and departments should more actively disseminate information regarding all treaties to officials in Government, to legislators, to non-governmental organizations, to academic institutions and to the general public. The Office of the High Commissioner for Human Rights should also be active in disseminating information within States on the instruments not ratified by that State and should be active in promoting understanding, through the dissemination of information, on the benefits of ratification both to the public and to the Government.

d. Further interagency strategies should be developed to build on the experiences gained from the HURIST programme in the promotion of universal ratification and implementation of human rights instruments.

e. Treaty bodies should be supported in their efforts to streamline the reporting mechanisms to ease reporting burdens on States parties. The issue has been under consideration by the Commission on Human Rights and the General Assembly for many years.[3] States parties should make use of the meetings of states parties to discuss issues of reforms.

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3. See for example, Economic and Social Council, *Effective Functioning of Bodies Established Pursuant to United Nations Human Rights Instruments*, Final Report of the Independent Expert on Enhancing the Long-Term Effectiveness of the United Nations Human Rights Treaty System, Note by the Secretary General, E/CN.4/1997/74; and Economic and Social Council, *Effective Functioning of Bodies Established Pursuant to the United Nations Human Rights Instruments*, Report of the Secretary-General, E/CN.4/1998/85.